COMMISSIONERS:



Haines Borough Planning Commission Regular Meeting Agenda

ROB GOLDBERG, CHAIR DANIEL GONCE, VICE-CHAIR ROBERT VENABLES HEATHER LENDE ANDY HEDDEN DON TURNER III LEE HEINMILLER

Thursday, March 13, 2014 - 6:30 p.m.

Assembly Chambers, 213 Haines Hwy.

- 1. CALL TO ORDER / PLEDGE TO THE FLAG
- 2. ROLL CALL
- 3. APPROVAL OF AGENDA
- 4. APPROVAL OF MINUTES: February 13, 2014
- **5. PUBLIC COMMENTS** [Items not scheduled for public hearing]
- CHAIRMAN'S REPORT
- 7. STAFF REPORT
 - A. Planning & Zoning Report
- **8.** PUBLIC HEARINGS:
 - **A.** Roger Schnabel C-208-TL-0400 Action Item: Property owner Roger Schnabel filed an appeal to the Planning Commission as a result of a decision made by the Borough requiring removal of the unpermitted material (concrete blocks and asphalt) from the site, and cease importing unpermitted material to the site. **Possible Motion:** The Planning Commission confirms the Borough's decision.
- 9. UNFINISHED BUSINESS: None
- **10.** NEW BUSINESS:
 - A. Historic District/Building Review: None
 - B. Haines Borough Code Amendments:
 - 1. Black Water Disposal within the Haines Borough Action Item: The commission discussed at their 07/09/09 and 08/13/09 regular meetings the topic of a black water disposal ordinance, and recommended the Assembly adopt the proposed ordinance. The draft ordinance provides a definition and while prohibiting outhouses within the townsite, requires outhouses or pit privies comply with ADEC requirements elsewhere. The ordinance was referred back to the commission, but it has not been addressed. The staff would like the commission reconsider the draft ordinance. Possible Motion: Recommend the Assembly adopt the draft ordinance.
 - Adding Setback Regulations to the General Use Zone Discussion Item: The proposed ordinance 13-12-358 was postponed and the Assembly directed Debra Schnabel to work with the planning commissioners to reconcile the setback issues. A proposed resolution prepared by Schnabel will be reviewed for comment by the Planning Commission.
 - C. Project Updates: None
 - D. Other New Business:
 - Possible Identifying of a Motorized Park within Townsite Service Area Discussion Item: The Assembly
 resubmitted its request to the commission regarding the evaluation and identification of sites for ATV use in the
 townsite service area. Five potential sites were offered at the January 14 Assembly meeting.
 - 2. Haines Wetland Program Plan Discussion Item: The Southeast Alaska Watershed Coalition will present Haines wetland program plans to the commission. They are seeking a partnership with the Borough, would like the commission to recommend the Assembly appoint one Borough employee to represent the Borough in the stakeholder group.
 - 3. Joint Meeting of the Planning Commission and the Assembly Discussion Item: The meeting is scheduled at the request of the Mayor. It will be held at 6:30 p.m. at the Assembly Chambers on Thursday March 20, 2014.
- 11. COMMISSION COMMENTS
- 12. CORRESPONDENCES
- 13. SCHEDULE MEETING DATE
 - A. Regular Meeting Thursday, April 10, 2014 6:30 p.m.
- 14. ADJOURNMENT



Haines Borough Planning Commission Meeting February 13, 2014 MINUTES Draft

- 1. <u>CALL TO ORDER/PLEDGE TO THE FLAG</u> Chairman **Goldberg** called the meeting to order at 6:30 p.m. in Assembly Chambers and led the pledge to the flag.
- 2. <u>ROLL CALL</u> Present: Chairman Rob Goldberg, Commissioners Don Turner III, Lee Heinmiller, Robert Venables, Danny Gonce, Heather Lende and Andy Hedden.

Staff Present: Carlos **Jimenez**/Director of Public Facilities and Tracy **Cui**/Planning & Zoning Technician III.

Also Present: Scott Sundberg, Kim Sundberg, Margaret Friedenauer, Nick Trimble, Chris Nagy, Shanah Kinison, Lee Nash, Erika Merklin, Shawn McNamara, Becky Hunt, Tim Ward, Thom Ely, James Sage, John Floreske, Ken Waldo, Bill Kurz, and Debra Schnabel (Liaison), etc.

3. APPROVAL OF AGENDA

<u>Motion</u>: Turner moved to "approve the agenda". Heinmiller seconded it. The motion passed unanimously.

4. APPROVAL OF MINUTES - January 9, 2014 Regular Meeting Minutes

<u>Motion</u>: **Venables** moved to "approve the January 9, 2014 Regular Meeting Minutes." It was amended to add "in a defined period of time" in the end of the second paragraph of 10B1. **Gonce** seconded it. The motion passed unanimously.

5. **PUBLIC COMMENTS** – None

6. CHAIRMAN'S REPORT

Goldberg said he would like to talk about some draft ordinances that were recommended to the Assembly. The "construction declaration" ordinance was passed, and it will become effective on May 1, 2014. However, the "setback regulations in general use zone" ordinance was sent back to the commission.

Schnabel said there is a concern from the Assembly. Establishment of a setback ordinance is identified as a regulation, and regulations need to be enforced. However, enforcement of a setback regulation in general use zone may become a problem because currently the Borough does not have land use permit applications in general use zone. She would like to work with the Planning Commission to address this concern.

Schnabel said she has a few more things to report to the commission. The Mayor requested the Planning Commission appoint a chairman for the Downtown Revitalization Committee (DRC). In addition, she said there are several construction projects coming up this summer, such as 3rd Ave construction project. The Assembly would like the Planning Commission to review and comment on those projects.

7. STAFF REPORTS

A. Planning & Zoning Report

Cui reported recent permitting and enforcement activities.

8. PUBLIC HEARINGS

A. Scott Sundberg – Heliport Conditional Use Proposal

Goldberg read the Borough Interim Manager's recommendation letter to the audience. The recommendation is to grant a short duration permit of one year be considered to provide a trial period.

Before opening the public hearing, **Goldberg** said this conditional use proposal is for the installation of a heliport at 26 mile; all the other proposed activities, such as lodges, accommodations, and snow cats, in this permit application are allowable uses as "use by right" under the Borough code. The issue is whether or not the Borough should allow the installation of a heliport on this property.

Goldberg opened the public hearing at 6:51 p.m.

Big Salmon Ventures representative **Sundberg** stated that they brought this plan back to the Borough two years later because they have made attempts to mitigate a few things. They are not trying to change people's lives permanently in a negative way; they only hope to bring more winter recreational opportunities to Haines in the long term. **Sundberg** said a "one-year trial" is a great possibility; however, they feel the conditions set forth in their proposal will prove that this is a beneficial activity on this particular site and prefer to receive a long-term permit.

Ely said if he bought a piece of land in a rural residential area, he would not expect his neighbor to install a heliport next door to him. Also, he does not believe the sound testing mentioned in the packet was professional. This proposal was rejected by the Planning Commission two years ago, so he thinks the applicant needs to move on.

Nash expressed his concerned about the noise pollution and increased traffic issues.

Merklin said she agrees with **Ely**. She feels if the proposal is approved, the developer will ask for more and more, and it will never be the end. She also expressed her concerns about who will monitor this, and what the consequences for violating the contract would be. She said she does not support this proposal, and the majority of the residents in this neighborhood do not support it either. She said she supports the heli-ski industry development in Haines, but she just does not support it in neighborhoods.

Ward said he is one of the property owners in this area. He wants to see this proposal approved.

Nagy said she is one of the property owners around Mosquito Lake. She does not want to see this happen. She expressed her concerns regarding quality of life. She also questioned who will be responsible for monitoring this activity. Because this kind of proposal keeps coming up, she suggested the commission consider installing a public heliport out of this neighborhood.

Kurz said he used to be one member of the Planning Commission in 1989. He wants to clarify that the proposed site is not in a rural residential zone; it is in a general use zone which is intended to allow as broad a range of land uses as possible. About the safety issues, he said a helicopter is a little bit safer than a car. He thinks what **Sundberg** is trying to do will become an asset to the community.

Hunt said she has lived at 26 mile for 18 years. The homeowners who opposed this plan two years ago have not changed their minds; it seems like the only thing that has changed is Sundberg's insistence to realize his plan.

Kinison said she and her husband just bought a piece of land at 26 mile. The noise created from the heliport will disturb their life.

Waldo said he owns a property about 3.5 miles away from the proposed site. He thinks Sundberg's proposal is a good thing. He said the Borough cannot keep shutting everything down.

Sage said he has lived in Haines for 47 years. He thinks it is a real good thing to Haines.

Trimble said they are trying very hard to make a good thing happen in Haines. He wants to mention that this heli-ski company has nothing to do with the cruise-ship helicopter tourism, so people do not need to worry about increasing traffic in this area. SEABA plans stay in a small operation, desiring their customers to stay at the resort for a minimum of one week. They do not plan to establish a high frequency operation with a high volume of customers. Also, he said they conducted decibel testing for the proposed helicopter landing area with one member of the Planning Commission last year, and the readings in the decibel meter were low. He would like the Planning Commission to request more decibel tests to confirm his statement.

More public comments ensued.

Goldberg closed the public hearing at 7:36 p.m.

Goldberg said there are eight criteria to be considered in deciding whether or not to grant a conditional use permit. The Planning Commission's job is to look into the code, and to find out if each of the criteria is met. He asked **Gonce** to talk about the day he did the decibel testing with **Trimble** and what he found out.

Gonce said he wrote down as much of information as he can about the equipment, the readings, and the locations. As far as his observations, the volume created with the helicopter was very low. The readings were lower than he expected.

Merklin said she definitely noticed there was a helicopter coming and going on that day.

Venables said he would not support to grant a conditional use permit as requested, but he would like to see a temporary permit to be monitored by the Borough. The purpose of the landings will be to assess the actual impacts of noise on nearby residences. He said it is premature to grant a long-term permit at this time.

Lende said she is in favor of the suggestion of choosing an appropriate location and installing a public heliport.

Hedden said he agrees with most of the information in the Borough Interim Manager's recommendation letter. He believes that noise is an issue. He does not think the decibel testing meter is a perfect tool.

<u>Motion:</u> Hedden moved to "approve the conditional use permit for a period of one year with the conditions that are stated in Big Salmon Ventures' application", **Turner** seconded it.

Gonce said the last time this proposal came to the Planning Commission he voted to against it for a few reasons. One of the reasons is the noise. However, after his trip to the site, he believes the new proposed site will greatly mitigate the sound to the neighbors.

<u>Primary Amendment:</u> Gonce moved to "only allow one company to use the site at a time, and all landings shall be no closer than 1,100' to the centerline of Chilkat Lake Road", **Turner** seconded it. The primary amendment passed 6-1 with **Goldberg** opposed.

Goldberg said he does not think this "one-year trial" will work well. If the Planning Commission approves a one-year conditional use permit, the developer probably will invest in infrastructure. The Planning Commission will have to go back to deal with this again after one year if the neighbors complain about the noise. Also, the Planning Commission shall make its decision based on the eight criteria outlined in the code. Criteria 1 reads "the use is so located on the site as to avoid undue noise and other nuisances and dangers." A few homeowners have given their comments that they heard helicopters from inside their homes, so obviously the noise is subjective. He thinks Criteria 1 has not been met.

Turner said he thinks the "one-year trail" is a better option. This will help to determine the actual impacts to the area.

The main motion failed with Goldberg, Heinmiller, Lende, and Venables opposed.

Motion: Venables moved to "For 2014, the Planning Commission recommends the Assembly authorize the Borough Manager to issue a temporary conditional use permit that allows for a limited, pre-approved, borough-monitored number of random landings, incorporating conditions offered by the Big Salmon Ventures, only allowing for one company to use the site at a time, with all landings to be at least 1,100' from the centerline of Chilkat Lake Road to gauge actual impacts, between 8:30 a.m. and 4:30 p.m. with continued noise measurement and monitoring", **Gonce** seconded it. The motion passed 6-1 with **Goldberg** opposed.

Goldberg called a five-minute recess.

9. UNFINISHED BUSINESS - None

10. NEW BUSINESS

- A. Historic District/Building Review None
- B. Haines Borough Code Amendments None
- C. Project Updates None
- D. Other New Business
 - 1. Classification of Borough Lands for Sale

Schnabel said this topic was brought up during the discussion of the permanent fund at the Assembly meeting. It was pointed out the permanent fund will grow by selling land, so the Assembly requested the commission identify some of the Borough properties that may be considered to classify for sale.

Gonce said he thinks it is not a good investment to sell properties in Haines Borough during this period of economic decline because there are too many real properties for sale right now.

More discussion ensued.

The Planning Commission will discuss this item at the April's Planning Commission meeting. The Borough land management department staff will be encouraged to attend.

2. Possible Identifying of a Motorized Park within Townsite Service Area

Turner, speaking for motorized recreational users, said that people are not interested in driving around in circles on a lot in town. They are interested in longer trips up the valley. He is more concerned about losing the right to motorized use of public land, as has happened in Juneau.

The Planning Commissioners discussed this possibility and decided that it is not a good idea. There were also concerns expressed about the terrain and soils in the Townsite Service Area not being suitable for off-road vehicles, and about the Borough's liability risk from injuries.

11. COMMISSION COMMENTS

Venables asked some questions about the enforcement order issued to William Chetney. **Cui** explained she received a phone call from Kim Chetney a few weeks ago stating this is a simple misunderstanding because she purchased the property in October of 2013, she is not operating a vacation rental business, and she has no intent to operate any lodging business on her property in the future. **Cui** said she will draft a letter to rescind the enforcement order. **Gonce** said he would like to review the letter at the next regular meeting.

Lende volunteered to fill the vacant seat on the DRC. The other commissioners supported it and appreciated her offer.

The Planning Commission was appalled that the new commissioner **Lende** was charged \$67 for having to go to King's Store to have a copy of the Comprehensive Plan printed. There should be a Comprehensive Plan assigned to every Planning Commission seat. The Borough should issue a refund and request Rob Miller return that copy of the Comprehensive Plan to the Borough.

12. COMMUNICATION - None

- **13. SET MEETING DATES** The next regular Planning Commission meeting is scheduled for 6:30 p.m. on Thursday, March 13, 2014.
- **14. ADJOURNMENT** 9:27 p.m.

Staff Report for March 13, 2014

1. Permits Issued Since February, 2014 – None

2. Enforcement Orders

Property owner Yngve Olsson is storing a big amount of concrete slabs on his property, which is in a commercial zone of Haines Townsite
Service Area. The placement of concrete slabs appears to meet the Haines Borough definition of landfill. Per HBC 18.70.040, operation of
a landfill in commercial zone is allowable only as a conditional use. A warning letter was sent on Feb 27, 2014. Mr. Olsson was given ten
business days to contact the Borough to address this matter.



DRAFT

March 6, 2014

Kim Chetney 35705 Beach Road Capistrano Beach, CA 92624

Via Email: kimchetney@me.com

Re: Unpermitted Land Use Violation

4-MBR-07-0600

Dear Mrs. Chetney:

Thanks for taking the time to speak with me on this matter. According to our phone conversation, you claimed:

- You purchased the above-listed property from Ms. Michelle LaBrosse in October of 2013;
- You are not operating a vacation rental business on the above-listed property;
- You are not aware of the rental advertisement listed on VRBO Vacation Rentals By Owner;
- You have no intent to operate any lodging rental business on the above-listed property in the future.

The Borough staff did investigations and confirmed your claims in greater detail below:

- Alaska Learning Adventures, LLC as grantor conveyed the above-listed property to William Chetney and Kim Chetney as grantees. The assumption deed (2013-000452-0) was recorded in October of 2013 at the Juneau Recorders Office;
- The listing page on VRBO (http://www.vrbo.com/411578) shows the advertisement was last modified on October 16, 2013.

Based on all the information above, the Borough has decided to retract the enforcement order dated January 9, 2014 concerning a \$100 penalty fee you were assessed for operating a vacation rental business without a conditional use permit. In the meantime, the Borough would like to ask your cooperation in contacting the previous property owner to remove the advertisement on VRBO so as to avoid future misunderstandings. Please do not hesitate to contact the Borough if you have any other questions.

Sincerely,

Tracy Cui Planning & Zoning Technician xcui@haines.ak.us (907) 766-2231 Ext. 23



January 9, 2014

VIA CERTIFIED MAIL

William Chetney 35705 Beach Road Capistrano Beach, CA 92624

Re: Unpermitted Land Use Violation

4-MBR-07-0600

Dear Mr. Chetney:

The Borough records show you remain in violation of Haines Borough Code 18.70.030(B)(3)(e)(9) in operating a vacation rental business on the above-listed property without a conditional use permit. According to the December 12, 2013 official notification letter, you were allowed to have ten business days to correct the violation.

Per Haines Borough Code 18.30.070(B), if the violation is not corrected within ten business days, a penalty of \$100.00 shall be assessed. If a penalty is not paid within thirty (30) days, interest of 1.5% per month (18% annually) will accrue. If the penalty is not paid within one year, the sum will be added to the violator's property tax.

Due to this fact, you must submit the \$100 penalty fee to the Borough by February 10, 2014. After that date, interest of 1.5% per month (18% annually) will accrue. Please also complete and submit the enclosed conditional use permit application form with the required \$150 application fee to the Borough office. The Planning Commission will review your permit application and approve the conditional use permit if the proposed business is compliant with Haines Borough code. Your remaining balance on these two fees is \$250.

Per Haines Borough Code 18.30.050, you have the right to appeal this decision to the Planning Commission. To do so, a written appeal must be submitted to the Borough Clerk within ten days of the date of this letter.

Thank you for your attention to this matter.

Sincerely,

Xi Cui "Tracy" Haines Borough Planning & Zoning Technician III xcui@haines.ak.us

(907) 766-2231 Ext. 23



August 30, 2013

Roger Schnabel HC 60, Box4800 Haines, AK 99827

Re:

Solid Waste Disposal on Private Property; Unpermitted Landfill; Burn Combustible

Materials Outdoors; Off-Road Truck on Borough Roads;

C-208-TL-0400

Dear Mr. Schnabel:

The Haines Borough has received multiple complaints that you were hauling, burning and burying trash on the above-listed property, which is in multiple residential zone. In response to the concerns from public, the Borough staff investigated the site and reviewed the fire incident report. Below are the findings:

- A large pile of various materials had been dumped and buried on the above-listed property. According to HBC 8.08.020(E), it is unlawful for any person to deposit any litter on private property, whether owned by the person or not.
- Some of the material was demolition waste from the Barnett Water Tank project and sidewalk construction project. This includes concrete blocks, asphalt and discarded culverts. The Borough understands that you have obtained a conditional use permit to operate a resource extraction on the above-listed property. However, operating landfills are not allowed in multiple residential zone, as per HBC 18.70.040. (HBC 18.20.020 defines "landfill" means a discreet area of land or an excavation that receives household and/or business solid waste for disposal, in compliance with required state and/or federal authorization.)
- The rest of the material was household items that had been removed from John & Erma Schnabel's residence. This includes household goods, clothing, small appliances, furnishings, cardboards, plastic goods, and other assorted materials. The Borough understands that your burn permit is current, but there are several violations of the conditions of the burn permit were committed, including:
 - o Burning of prohibited materials, including Styrofoam, petroleum based materials, plastic, painted wood, metals and alloys;
 - o Failure to report the fire to dispatch in advance of igniting;
 - o Failure to attend the fire personally;
 - o Failure to furnish water or equipment on site to extinguish the fire if it spread out of control.

- You appear to burying discarded culverts as fill on the west side of the above-listed property without prior authorization from Alaska Department of Environmental Conservation (ADEC). Per State of Alaska Solid Waste Regulation 18 AAC 60.007(c), a person may not place solid waste on the land until the person has submitted a proposal to the department and that proposal has been approved.
- The content of the dump truck had been deposited directly from the dump truck, which tends to show the dump truck was driven up Young Road while "loaded" in violation of your permit to operate the unloaded truck on Borough roads.

Based on the findings, you are required to correct those violations immediately as following:

- Stop hauling and dumping any material in the gravel pit;
- Stop dumping trash except in a disposal area designated by the Borough;
- Remove the trash that had been buried on the west side of the gravel pit;
- Remove the concrete blocks and asphalt from the site;
- If you wish to apply and qualify for ADEC's approval to use discarded culverts as fill under 18.AAC 60.007(c) you must provide ADEC with a written detailed description of your plan and include construction drawing of your project; otherwise, you are required to dig out the discarded culverts, and remove them from the site;
- Cease using "loaded" off-road dump truck on Borough roads, and provide the Borough with a copy of your state permit for operating the off-road dump truck.

These matters require your immediate attention. Due to the fact that you violated a provision of HBC Title 8, you are being assessed a \$300 fine, as required by HBC 8.08.050. You are required to take the required responsive action within 10 days of receipt of the notice. If no response is received by September 9, 2013, the Borough may take such action as the official deems necessary to correct or abate the violation. According to HBC 8.08.030(C), the cost of such action taken by the Borough official, including process fees and incidental administrative costs, shall be charged to the responsible party and shall be due and payable within 30 days of the completion of the action, within interest accruing at a rate of 12 percent per year, until paid in full.

Thank you very much for your attention to this matter. Please feel free to contact the Borough if you have any questions.

Sincerely,

Mark Earnest Borough Manager



Roger Schnabel HC 60, Box4800 Haines, AK 99827

HAINES BOROUGH, ALASKA

P.O. BOX 1209 • HAINES, ALASKA 99827

Administration 907.766.2231 • (fax) 907.766.2716

Tourism 907.766.2234 • (fax) 907.766.3155 Police Dept. 907.766.2121 • (fax) 907.766.2128 Fire Dept. 907.766.2155 • (fax) 907.766.3373

September 25, 2013

Re:

Solid Waste Disposal on Private Property; Unpermitted Landfill; Burn Combustible

Materials Outdoors; Off-Road Truck on Borough Roads;

C-208-TL-0400

Dear Mr. Schnabel:

Thanks for making prompt responsive actions and submitting the \$300 fine to the Borough. The Borough staff has reviewed your written response with your particular grounds for reconsideration. Below are the findings that are based upon a review of the whole record:

- Your gravel pit is located in Multiple Residential Zone of Townsite Service Area. Our record shows you obtained a conditional use permit to operate a resource extraction on April 28, 2011. Per HBC 18.20.020, "Resource extraction" means a use involving clearing or grading of land or the removal, for commercial purposes, of native vegetation, topsoil, fill, sand, gravel, rock, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics. Please understand that by approval of a resource extraction conditional use proposal with the April 28, 2011 decision made by the Planning Commission, the Borough is neither: (1) allowing you to haul/dump concrete blocks and asphalt to the site; nor (2) allowing you to bury discarded culverts as fill.
- Also, the placement of concrete blocks, asphalt and discarded culverts meet the definition of landfill: per HBC 18.20.020, "Landfill" means a discreet area of land or an excavation that receives household and/or business solid waste for disposal, in compliance with required state and/or federal authorization. The use of the site, which is located within the multiple residential zone as a landfill is prohibited, as per HBC 18.70.040.
- According to Alaska State Statute 46.03.100, no one can put waste on land of the state without prior authorization from the Alaska Department of Environmental Conservation (ADEC). If you do not want to remove the culverts and still want to bury them, you are required to provide ADEC with proposal that describes your intent to use metal culverts as fill under 18 AAC 60.007(c). If you have questions regarding this matter, please feel free to contact ADEC Landfill Specialist Ms. Sandra Woods at (907) 465-5318.
- The Borough has not received the copy of your state permit for operating the off-road dump truck.

Roger Schnabel September 25, 2013 Page Two

The Borough will sustain the requirements of the letter dated August 30, 2013. You are required to take the required responsive action within 10 days of receipt of this notice, and clear the concrete blocks, asphalt and discarded culverts from the site by October 24, 2013. Per HBC 18.30.090(B), the planning commission may suspend or revoke your conditional use permit whenever the approval granted is in violation of any ordinance or regulation or any provision of Borough code.

Per HBC 18.30.050, you have the right to appeal this decision to the Planning Commission. To do so, a written appeal must be submitted to the Borough Clerk within 10 days of the date of this letter. If you have any questions regarding this please let me know. In advance, we thank you for your attention on this matter.

Sincerely,

Mark Earnest Borough Manager



January 24, 2014

Certified Mail

Roger Schnabel HC 60, Box4800 Haines, AK 99827 Email: roger@seroad.com

Re: Solid Waste Disposal on Private Property; Unpermitted Landfill

C-208-TL-0400

Dear Mr. Schnabel:

It has been a while since the Borough discussed this matter with you. The Borough appreciates your effort to make prompt responsive actions in the removal of the buried culverts from the site. It is our understanding that you spoke with the former Borough Manager Mark Earnest to address the remaining issues. To summarize the discussion as requested, please note the following:

- You will discontinue hauling <u>any</u> material to the site. The placement of concrete blocks and asphalt meets the definition of landfill: per HBC 18.20.020, "Landfill" means a discreet area of land or an excavation that receives household and/or business solid waste for disposal, in compliance with required state and/or federal authorization. The use of the site, which is located within the multiple residential zone as a landfill is prohibited, as per HBC 18.70.040.
- Cement is not considered waste under 18 AAC 60.005(c)(3) and according to the state regulations you cannot use the crushed asphalt until you submit a proposal to ADEC. In the meantime, ADEC is okay with you storing it on your property. The Borough understands the placement of the concrete and asphalt is with the intent to recycle, and your intent is to use them for other projects in the near future. Because of unique circumstances, the Borough determines it is okay for you to temporarily store the existing concrete and asphalt until October 31, 2014 (the end of 2014 construction season).

Since the placement of concrete blocks and asphalt meets the definition of landfill in Borough code, if you want to continue to haul solid waste to your site, you may consider a request to the Planning Commission to change the zoning of the above-listed property from a multiple residential zone to a rural mixed use zone. According to HBC 18.70.040, operation of a landfill in rural mixed use zone must be approved as a conditional use permit by the Planning Commission. If the rezoning petition is adopted by ordinance, you may pursue a conditional use permit to allow the operation of a landfill on your property.

Thanks again for your willingness to cooperate in this matter. The Borough appreciates your work and looks forward to working with you in the future. Please do not hesitate to contact the Borough if you have any questions or concerns.

Sincerely,

Sincerely,

Tracy Cui
Borough Planning & Zoning Technician



February 13, 2014

Roger Schnabel HC 60, Box 4800 Haines AK 99827 roger@seroad.com

HAINES BOROUGH, ALASKA

P.O. BOX 1209 • HAINES, ALASKA 99827 Administration 907.766.2231 • (fax) 907.766.2716

> Tourism 907.766.2234 • (fax) 907.766.3155 Police Dept. 907.766.2121 • (fax) 907.766.2128 Fire Dept. 907.766.2155 • (fax) 907.766.3373

via Certified Mail and Email

Re: Solid Waste Disposal on Private Property; Unpermitted Landfill

C-208-TL-0400 – Multiple Residential Zone

Dear Mr. Schnabel:

At your request I have reviewed the letter you wrote to the borough's previous manager dated October 22, 2013. Thank you for forwarding it to me. Additionally, I have had discussions with the Director of Public Facilities and the Planning & Zoning Technician.

I understand your contention that you have been allowed to do this in the past. Failure by previous staff members to enforce the code is not a valid reason for current staff to continue to do so. We have determined your deposits of material on the property to be in violation of your gravel pit conditional use permit and also a violation of borough code governing the zone this property is in. Per HBC 18.30.090(B), the planning commission may suspend or revoke your conditional use permit whenever the approval granted is in violation of any ordinance or regulation or any provision of borough code.

You also contend the Alaska Department of Environmental Conservation (ADEC) has no objection to concrete and asphalt being placed on this site, however it is not permitted by borough code in this particular zone and staff does not have the latitude to grant a variance or exemption based on opinions or past practice. State regulations only preempt borough code when they are more restrictive and as stated above borough code prohibits this. ADEC has informed us they have no objection to a <u>temporary</u> storage on the site. They have not defined *temporary* and, even so, it would not constitute an exemption from borough code regulations.

Please comply with the letter sent to you on January 24, 2014 requiring removal of the existing concrete and asphalt from the site by October 31, 2014. Additionally, you are prohibited from depositing any additional materials on the property. This is the manager's final decision. You have the right to appeal this decision to the planning commission and, to do so, a written appeal must be submitted to the borough clerk within ten days of the date of this letter.

Sincerely,

Julie Cozzi

Interim Borough Manager

Cc: Carlos Jimenez

Xi Cui

Xi Cui

To: Woods, Sandra M (DEC)
Subject: RE: Haines Borough

From: Woods, Sandra M (DEC) [mailto:sandra.woods@alaska.gov]

Sent: Friday, March 07, 2014 8:27 AM

To: Xi Cui

Subject: FW: Haines Borough

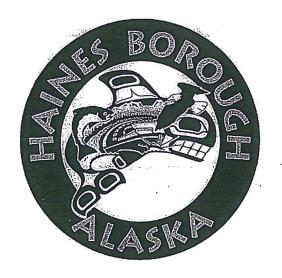
Xi Cui, here's the e-mail I originally sent to you with a summary of what I told Mr. Schnabel. As you can see I told him we had no problem with the cement, he could temporarily store the asphalt on his property (not permanently) but couldn't use it as fill until he sent DEC a proposal under 18 AAC 60.007(c) and that if the City of Haines had any ordinances that did not allow cement or asphalt, that would take precedence over the state's regulations. I hope that clears it up for you.

- (c) A person may not place solid waste on the land until the person has submitted a proposal to the department, and that proposal has been approved. A proposal submitted under this section must include the following:
- (1) an appraisal or assessment showing the current value of the property where the solid waste is to be placed;
- (2) a list of each waste to be placed at the site, including the expected volume and the source of each waste type;
- (3) the proposed future use of the site;
- (4) an estimate of the value the property will have after the solid waste is in place;
- (5) an operations plan explaining where and when the various wastes will be placed on the land;
- (6) an estimate of the expected compaction density and load bearing capacity of the finished fill;
- (7) a list of each permit and approval issued or expected to be issued by other government agencies;
- (8) construction drawings showing
- (A) surface contours of the existing site;
- (B) surface contours of the finished site:
- (C) the location and details for all drainage ditches and culverts to be installed;
- (D) the location of any temporary or permanent road or ramp; and
- (E) any pavement, sewer, plumbing, or electrical installation.
- (d) The department will approve a proposal for solid waste disposal under this section within 30 working days after receipt of the request, if the waste meets the conditions listed in (b) of this section, the person requesting permission has submitted the information required under
- (c) of this section, and the department finds that the project will
- (1) increase the market value of the property;
- (2) not shift, erode, or settle in a way that will preclude proposed future use of the site;
- (3) not create any harmful leachate;
- (4) not undergo combustion; and
- (5) not cause a threat to the public health, safety, or welfare, or to the environment.

Sandra Woods







April 28, 2011

Roger Schnabel HC 60 box 4800 Haines, AK 99827

Re: Conditional Use Permit Renewal #11-21

Location: C-208-TL-0400

Dear Mr. Schnabel,

Thank you for your participation in the April 14th Planning Commission meeting. Your conditional use permit to continue a resource extraction operation for aggregate on the above listed property in the previously used area and to the west of that area has been approved per plans submitted. This conditional use permit is valid for three years. You will be required to apply to renew this conditional use permit if you wish to continue to the resource extraction operation after April 28, 2014. If you have any questions on the matter, please contact the Borough.

Sincerely,

Steve Ritzinger

Haines Borough Planning and Zoning Tech

sritzinger@haines.ak.us (907) 766-2231 Ext 23

HAINES BOROUGH Permit # PLANNING AND ZONING/LAND USE PERMIT APPLICATION
[] SIGN \$25 [] LAND USE AND DEVELOPMENT \$50 [] CHANGE OF USE \$50
[X] VARIANCE /CONDITIONAL USE/ PUD \$150 [] LOT LINE VACATION/ADJUSTMENT PLAT \$50
[] SHORT PLAT \$75 [] REZONING/LONG PLAT \$200
Land Use Zone: (circle) GU LTK MB I/H I/L/C I/W C W SSA SR MR RR RMU REC
Location of project: Lot 4 Block Subdivision/Tract/Survey USS 208
Street Address North of Oslund Drive Property tax ID number C-208-TL-0400
[] Residential Development [] Commercial Development
[] Single Family Type of Business
[] Multi-Family give maximum seating capacity
(# of Units) [] Sign(s) How many? (Attach Drawing) [] Fire Marshal Plan Approval (Required)
[] If Change of Use: Existing/Proposed Property Use
[] If Subdivision: New Subdivision Name (must be unique)
Estimated Project Value \$(To nearest \$1,000)
[X] Development: (Explain) Aggregate Source
PERMIT REQUIREMENTS:
→ Connect to Public Water and Sewer if available [completed application required]
ightarrow Provide State approval of on-site water and/or septic system if public utilities not
available - permit will not be issued without this approval
→ Provide proof of legal and physical road access to property
→ Provide plan for drainage, driveway(s), culvert size and placement
→ Provide public access to recreational waters where required → Provide adequate off-street parking as required
→ Flowide adequate off-street parking as required → Abide by existing height restrictions and setback requirements
→ Abide by existing minimum lot size requirement
→ In Highland Estates, underground utilities required where available
→ If application for commercial use, written approval from State Fire Marshal's office required before Borough permit will be issued
→ If permit is for a sign adjacent to a State Highway, set back a minimum of 60' from center line of the highway or applicant must notify local DOT
→ If located in Historic District, permit processed by Planning Commission
[] I hereby request a variance from density, setback, parking or height limitations and have submitted a variance request form, attached hereto.
The information I have given in this application is true and accurate. I have bee
informed of the above-listed permit requirements and agree to abide by them, al
Borough Codes, and all State and Federal regulations, including those regardin wetlands and tidelands. I AM AWARE THAT IF I BEGIN CONSTRUCTION PRIOR TO RECEIVIN
PERMIT APPROVAL I WILL BE ASSESSED A \$250.00 "AFTER-THE-FACT" FEE.
-D///
Signature of Property Owner (Required) Businesses/Laborers hired (Required)
Roger J. Schnabel Southeast Road Builders, Inc.
Printed Name of Property Owner Owner Name
HC60 Box 4800, Haines, AK 99827 Mailing Address HC60 Box 4800, Haines, AK 99827 Mailing Address
3/7/20// 766-2833 766-2833
Date Submitted Phone No. Phone No.

HAINES BOROUGH PLANNING AND ZONING/LAND USE PERMIT APPLICATION

Page 2

SITE PLAN

Draw your site plan, to scale, on a separate sheet of paper. The site plan must include the following:

- Drawing showing dimensions of lot on which activity/construction is planned.
- Existing streets, alleys, sidewalks, driveways, easements, incl. widths.
- Existing buildings/structures on the property, their location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
- 4. Proposed construction--including location, dimensions, and proximity to lot lines or other structures. (Measured from closest point on structure to other lot lines, structures, etc.)
- Existing and proposed non-building improvements, including surface water drainage plan, driveway placement, culvert(s), off-street parking (location and dimensions), on-site water and/or wastewater handling systems.
- Shore lines, steep slopes, or other evidence of natural hazards.
- If commercial structure include all signs planned, with a drawing showing the proposed size, lettering and dimensions, its location on the property, as well as dimensions of building wall on which or adjacent to which each sign will be placed. Maximum of 4 signs per business allowed. (See example.)
- If variance or conditional use application, provide the names and addresses of all property owners within 200 ft. of your property (see Assessor's office)
- If zero lot line construction proposed, show plan for handling snowdrop onto adjoining properties.

It is strongly recommended that a survey of the property be performed prior to submittal of the land use permit application and site plan. Setback requirements vary by district -- check with Borough planning staff for setback requirements in your area. Ordinance enforcement as adopted by the Haines Borough Assembly is administered by the Haines Borough Planning Commission. Any violation of permit procedures or of the ordinances enforced by the Commission has both civil and criminal penalties provided by law.

----- OFFICE USE ONLY BELOW THIS LINE -----DECISION

This application meets all applicable Borough policies and a permit is issued, conditional on the substantial completion of construction within two years and the following special requirements:

NON-REFUNDABLE PROCESSING FEES

[] \$25 - Sign [] \$50 - Land Use [] \$50 - Change of Use
[] \$50 - Lot Line Vacation/Adjustment Plat [] \$75 Short Plat
[] \$200 - Rezoning/Long Plat
[] \$250 - Fee for beginning work prior to permit being issued
\times Fees paid \$ 150.00 Receipt No. 14317
Holsen 3.17.11
Fees Received By Date Received

COMMISSION CHAIR

Roger Schnabel **Resource Extraction Conditional Use Reapproval Public Hearing** 6:30 p.m. April 14, 2011 **Haines Borough Assembly Chambers** Bjornstad Dr Oslund Dr Barnett Dr Fourth Ave Mathias Ave Union St

HBC 18.20.020 Definitions – Regulatory.

"Landfill" means a discreet area of land or an excavation that receives household and/or business solid waste for disposal, in compliance with required state and/or federal authorization. Such landfills may be publicly or privately owned.

"Solid waste transfer facility" means a site where solid waste is collected for transfer to a permanent disposal facility.

UBR = Use-By-Right

"Resource extraction" means a use involving clearing or grading of land or the removal, for commercial purposes, of native vegetation, topsoil, fill, sand, gravel, rock, petroleum, natural gas, coal, metal ore, or any other mineral, and other operations having similar characteristics.

HBC 18.70.040 Zoning use chart.

The following chart summarizes the uses allowed and the standards of review for each use, townsite planning/zoning district and the zones therein. In the commercial and industrial zones, more than one building housing a permissible principal use may be developed on a single lot; provided, that each building and use shall comply with all applicable requirements of this title. Additional requirements may be applicable to developments within some zones. See the definitions in Chapter 18.20 HBC for descriptions of each use.

ZONING USE CHART

TOWNSITE PLANNING/ZONING DISTRICT

CU = Conditional Use

= Permit Required = Permit Not Required

NA = Not Allowed

GENERAL CLASSIFICATION	INDUSTRIAL USES			COMMERCIAL/ Residential Uses			RESIDENTIAL USES ONLY	RESIDENTIAL/ Commercial Uses				RECREATIONAL USE
Specific Zoning Districts	Heavy Industrial	Light Industrial/ Commercial	Waterfront Industrial	Commercial	Waterfront	Significant Structures Area	Single Residential	Multiple Residential	Rural Residential	Rural Mixed Use	Multiple Use	Recreational
uses U	I/H	I/L/C	I/W	C	w	SSA	SR	MR	RR	RMU	MU	REC
Landfill	UBR	UBR	NA	CU	NA	NA	NA	NA	NA	CU	UBR	NA
Resource Extraction/Proc.	UBR	CU	CU	CU	NA	NA	NA	NA	CU	CU	UBR	NA
Solid Waste Transfer Facil.	UBR	UBR	NA	CU	NA	NA	NA	NA	NA	CU	UBR	NA

HBC 18.30.050 Appeals to the commission.

An appeal made to the commission of a decision by the manager shall be requested by filing with the clerk, within 10 days of the date of the decision appealed, a written notice of appeal stating with particularity the grounds for the appeal.

- A. The commission shall decide at its next regularly scheduled meeting whether to rehear the manager's decision. Any aggrieved person, including the developer, may appear at that meeting and explain to the commission why or why not it should rehear the manager's decision. If the commission chooses to rehear the decision, it may choose to rehear the entire decision, or any portion thereof.
- B. If the commission decides to rehear a decision, or any portion thereof, it shall then immediately do so at that meeting and make its decision.
- 1. Findings of fact adopted expressly or by necessary implication shall be considered as true if, based upon a review of the whole record, they are supported by substantial evidence. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. If the record as a whole affords a substantial basis of fact from which the fact in issue may be reasonably inferred, the fact is supported by substantial evidence. The burden of proof shall be on the appellant to demonstrate the facts and resolution of the issues on appeal by substantial evidence. The evidence shall be limited to a review of the record, although further argument may be allowed.
- 2. In all decisions the burden of proof shall be on the party challenging the decision of the manager. The commission may confirm the manager's decision, reverse the manager's decision, or change the conditions which the manager placed on approval. The commission shall support its action with written findings. C. A decision by the manager shall not be stayed pending appeal, but action by the appellee in reliance on the decision shall be at the risk that the decision may be reversed on appeal.
- D. The commission's decision may be appealed to the borough assembly pursuant to HBC 18.30.060. (Ord. 04-05-078; Ord. 05-02-091)

ROGER J. SCHNABEL

HC60 BOX 4800 HAINES, ALASKA 99827 (907) 766-2833

roger@seroad.com

February 26, 2014

Haines Borough

Attn: Borough Clerk

Rob Goldberg, Commission Chair, Planning and Zoning Commissioners

P.O. Box 1209

Haines, Alaska 99827

Re: Decision by the Interim Borough Manager

C-208-TL-0400

Solid Waste Disposal on Private Property

Unpermitted Landfill

NOTICE OF APPEAL

Dear Mr. Goldberg and Commission Members:

I, Roger Schnabel, make an appeal to the Commission as a result of a decision made by the Interim Borough Manager regarding land use on property C-208-TL-0400, (north of the petroleum pipeline easement-4th Avenue gravel source).

Issue & Position by Manager:

I am in receipt of two letters from the Interim Borough Manager dated January 24, 2014 and February 13, 2014 (see attached). The Interim Manager states the following:

1/24/14 Letter:

- Regarding: "Solid Waste Disposal on Private Property; Unpermitted Landfill"
- Bullet #1: Forbids me to haul "any material to the site".
 Interprets that "The placement of concrete blocks and asphalt meets the definition of landfill: per HBC 18.20.020."
- Bullet #2: Identifies State Code, ADEC State Regulations and ADEC Permitting requirements.
- Paragraph following the second bullet: "Since placement of concrete blocks and asphalt meets the definition of landfill in borough code."

2/13/14 Letter:

- Regarding: "Solid Waste Disposal on Private Property; Unpermitted Landfill".
- Confirms the letter dated 1/24/14 as final decision.

Reasons and Grounds for Appeal:

1) I do not believe there is any disagreement regarding the material placed on the site that may be regulated as defined by the State of Alaska Code under 18 AAC 60.005, requiring a Landfill.

18-AAC-60.005 (c) (3), exempts concrete, and paragraph (13) exempts crushed asphalt pavement.

The Interim Manager has made a decision based upon her interpretation that the simple act of placing the asphalt and concrete meets the Haines Code definition, and therefore we are operating a landfill, however no applicable Chapter or Code is referenced (HBC 18.20.020 is incorrectly applied in this case), nor is there any factual finding made to support her conclusion. The Interim Manager did not consider that these items are only to be stored until they can be used elsewhere offsite. Under the definitions clause, (Haines Chapter 18.20) we are not a "Solid waste transfer facility" we are not a "Landfill" and asphalt and concrete are not considered "Litter". ADEC defines solid waste, the Haines Borough it appears to us, does not, yet our Interim Manager makes a land use decision without the facts or code to support her decision. Such a decision appears to lack substantial evidence to support it and as such is arbitrary and capricious

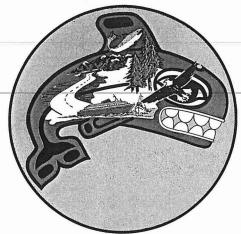
2) Last fall I had several discussions with the Borough Manager, Mark Earnest. An agreement was reached and is memorialized in a letter dated October 22, 2013 (attached). It was agreed that once the site was cleared of the culvert and any other regulated material that was on-site, I could then continue operations. He had made no determination regarding the storage of the asphalt and concrete. In order to put closure on this item, I asked for direction as to whether I needed to apply for a permit to store the material.

The Interim Manager however, is in disagreement and has prohibited me from depositing any additional materials on the property. I request the Commission to make a determination supporting the agreement with Mr. Earnest.

Considering the above concerns and request, I will make myself available to discuss this issue further in order to proceed towards an amicable solution allowing me to utilize my property that will be consistent with the comprehensive plan, consistent with the property uses allowed when purchased and not disruptive to the character of the neighborhood and is decided with due regard for due process of law.

Sincerely,

Roger J. Schnabel Landowner



February 13, 2014

Roger Schnabel HC 60, Box 4800 Haines AK 99827 roger@seroad.com

HAINES BOROUGH, ALASKA

P.O. BOX 1209 • HAINES, ALASKA 99827 Administration 907.766.2231 • (fax) 907.766.2716

> Tourism 907.766.2234 • (fax) 907.766.3155 Police Dept. 907.766.2121 • (fax) 907.766.2128 Fire Dept. 907.766.2155 • (fax) 907.766.3373

via Certified Mail and Email

Re:

Solid Waste Disposal on Private Property; Unpermitted Landfill

C-208-TL-0400 - Multiple Residential Zone

Dear Mr. Schnabel:

At your request I have reviewed the letter you wrote to the borough's previous manager dated October 22, 2013. Thank you for forwarding it to me. Additionally, I have had discussions with the Director of Public Facilities and the Planning & Zoning Technician.

I understand your contention that you have been allowed to do this in the past. Failure by previous staff members to enforce the code is not a valid reason for current staff to continue to do so. We have determined your deposits of material on the property to be in violation of your gravel pit conditional use permit and also a violation of borough code governing the zone this property is in. Per HBC 18.30.090(B), the planning commission may suspend or revoke your conditional use permit whenever the approval granted is in violation of any ordinance or regulation or any provision of borough code.

You also contend the Alaska Department of Environmental Conservation (ADEC) has no objection to concrete and asphalt being placed on this site, however it is not permitted by borough code in this particular zone and staff does not have the latitude to grant a variance or exemption based on opinions or past practice. State regulations only preempt borough code when they are more restrictive and as stated above borough code prohibits this. ADEC has informed us they have no objection to a <u>temporary</u> storage on the site. They have not defined *temporary* and, even so, it would not constitute an exemption from borough code regulations.

Please comply with the letter sent to you on January 24, 2014 requiring removal of the existing concrete and asphalt from the site by October 31, 2014. Additionally, you are prohibited from depositing any additional materials on the property. This is the manager's final decision. You have the right to appeal this decision to the planning commission and, to do so, a written appeal must be submitted to the borough clerk within ten days of the date of this letter.

Sincerely,

Julie Cozzi

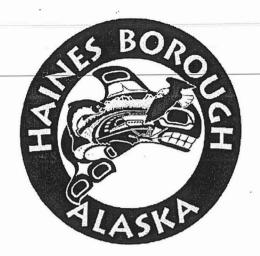
Interim Borough Manager

Cc: Carlos Jimenez

Xi Cui

RECEIVED

FEB 2 1 2014



January 24, 2014

Certified Mail

Roger Schnabel HC 60, Box4800 Haines, AK 99827

Email: roger@seroad.com

Re:

Solid Waste Disposal on Private Property; Unpermitted Landfill

C-208-TL-0400

Dear Mr. Schnabel:

It has been a while since the Borough discussed this matter with you. The Borough appreciates your effort to make prompt responsive actions in the removal of the buried culverts from the site. It is our understanding that you spoke with the former Borough Manager Mark Earnest to address the remaining issues. To summarize the discussion as requested, please note the following:

- You will discontinue hauling <u>any</u> material to the site. The placement of concrete blocks and asphalt meets the definition of landfill: per HBC 18.20.020, "Landfill" means a discreet area of land or an excavation that receives household and/or business solid waste for disposal, in compliance with required state and/or federal authorization. The use of the site, which is located within the multiple residential zone as a landfill is prohibited, as per HBC 18.70.040.
- Cement is not considered waste under 18 AAC 60.005(c)(3) and according to the state regulations you cannot use the crushed asphalt until you submit a proposal to ADEC. In the meantime, ADEC is okay with you storing it on your property. The Borough understands the placement of the concrete and asphalt is with the intent to recycle, and your intent is to use them for other projects in the near future. Because of unique circumstances, the Borough determines it is okay for you to temporarily store the existing concrete and asphalt until October 31, 2014 (the end of 2014 construction season).

Since the placement of concrete blocks and asphalt meets the definition of landfill in Borough code, if you want to continue to haul solid waste to your site, you may consider a request to the Planning Commission to change the zoning of the above-listed property from a multiple residential zone to a rural mixed use zone. According to HBC 18.70.040, operation of a landfill in rural mixed use zone must be approved as a conditional use permit by the Planning Commission. If the rezoning petition is adopted by ordinance, you may pursue a conditional use permit to allow the operation of a landfill on your property.

Thanks again for your willingness to cooperate in this matter. The Borough appreciates your work and looks forward to working with you in the future. Please do not hesitate to contact the Borough if you have any questions or concerns.

Sincerely,

Tracy Cui
Borough Planning & Zoning Technician

Article 1. General Standards, Requirements, and Limitations.

Section

- 05. Purpose and applicability
- 07. Solid waste used as fill
- 08. Beneficial use
- 10. Accumulation, storage, and treatment
- 15. Transport
- 20. Hazardous waste
- 25. Polluted soil
- 30. Medical waste
- 35. Vehicles and construction equipment
- 40. Wellhead protection
- 18 AAC 60.005. Purpose and applicability. (a) The purpose of this chapter is to promote cost-effective, environmentally-sound solid waste management and to ensure that landfills are designed, built, and operated to minimize health and safety threats, pollution, and nuisances. Each type of solid waste that is disposed in a landfill must be placed only in a landfill that meets the standards for that type of waste.
- (b) Except as described in (c) of this section, this chapter applies to any person who accumulates, stores, transports, treats, or disposes of solid waste. The general requirements of 18 AAC 60.005 18 AAC 60.265 and 18 AAC 60.800 18 AAC 60.860 supplement the specific requirements for
- (1) municipal solid waste landfills (MSWLF) as covered by 18 AAC 60.300 18 AAC 60.398;
 - (2) monofills as covered by 18 AAC 60.400 18 AAC 60.495; and
 - (3) land application of biosolids as covered by 18 AAC 60.500 18 AAC 60.510.
- (c) The following wastes and materials, if disposed of or used as described in this subsection, are exempt from the requirements of this chapter unless mixed with nonexempt waste, there is a public health, safety, or welfare threat or environmental problem associated with management of the waste or material, or the waste or material is being managed in a manner that causes or contributes to a nuisance:
- (1) landclearing waste, including excavated dirt, rock, soil, butt ends, stumps, and other similar waste;
- (2) tree limbs and other foliage or woody debris, sometimes referred to as "slash," in a timber harvest area;

Register 206, July 2013 ENVIRONMENTAL CONSERVATION

- (3) bricks, mortar, and Portland cement type concrete, including reinforcing steel that cannot be easily removed;
 - (4) crumb rubber used in asphalt paving;
 - (5) crushed glass;
- (6) domestic wastewater, nondomestic wastewater, and other wastes that are subject to a permit under AS 46.03, 18 AAC 72, or 33 U.S.C. 1342 (Federal Water Pollution Control Act, sec. 402), as amended through August 21, 1998;
- (7) septage or septic tank pumpings that contain less than five percent solids by weight regulated under 18 AAC 72;
 - (8) waste rock from a mining operation;
- (9) tailings from placer mining that have not been amalgamated or chemically treated; other mine tailings are regulated under 18 AAC 60.455;
- (10) mining waste regulated by the Federal Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 30 U.S.C. 1328, as amended through August 21, 1998, and by the Alaska Surface Coal Mining Control and Reclamation Act (AS 27.21), as amended through August 21, 1998;
- (11) wood waste generated in amounts less than 10 cubic yards yearly, or in larger amounts if the conditions listed in this paragraph are met; wood waste that does not meet these conditions is regulated under 18 AAC 60.005 18 AAC 60.265, 18 AAC 60.480, and 18 AAC 60.800 18 AAC 60.990; the conditions that must be met are, as follows:
 - (A) the wood waste is used to construct roads, building pads, or parking areas;
 - (B) the use of wood will not diminish the life span or capabilities of the project when compared with other materials typically used in such projects;
 - (C) the project complies with the water quality standards in 18 AAC 70; and
 - (D) the wood waste in the project is no more than 10 feet thick at any location;
- (12) source, special nuclear, or byproduct material as defined in 42 U.S.C. 2014 (Atomic Energy Act), as amended through August 21, 1998;
 - (13) crushed asphalt pavement used

- (A) in a building pad or parking area as road base, or pavement; or
- (B) as a material to construct a containment berm for a tank farm;
- (14) any treated waste allowed by the department to be managed as exempt waste under 18 AAC 60.005(e);
- (15) soil containing a hazardous substance that does not meet the definition of "polluted soil" in 18 AAC 60.990;
- (16) other solid wastes and materials placed on the land which meet the conditions established in 18 AAC 60.007.
- (d) A treatment works designed to treat less than five tons of waste daily or 10 tons in a single batch is exempt from the requirements of this chapter unless it causes or contributes to a threat to public health, safety, or welfare, or the environment or unless the works is operated in a manner that causes or contributes to a nuisance.
- (e) If a person treats a waste and demonstrates to the department's satisfaction that the potential for a release of hazardous constituents is eliminated by the treatment and the treated waste will not present a threat to the public health, safety, or welfare, or to the environment, the department will allow the treated waste to be managed as an inert waste under 18 AAC 60.460 or an exempt waste under (c) of this section. The operator of the treatment works must
- (1) secure the approval of the department before handling the waste as inert or exempt under this subsection; and
- (2) keep records demonstrating that all waste managed under this subsection was treated in the manner on which the approval was based. (Eff. 1/28/96, Register 137; am 10/29/98, Register 148; am 7/11/99, Register 151; am 9/7/2002, Register 163)

 Authority:
 AS 44.46.020
 AS 46.03.100
 AS 46.03.810

 AS 46.03.010
 AS 46.03.110
 AS 46.06.080

 AS 46.03.020
 AS 46.03.800

18 AAC 60.007. Solid wastes used as fill. (a) A person may place the following solid wastes on the land for a fill project that meets the conditions in this section:

- (1) wood waste;
- (2) inert waste;
- (3) coal ash;
- (4) crushed pavement;

- (k) "Inert Debris" means solid waste and recyclable materials that are source separated or separated for reuse and do not contain hazardous waste (as defined in CCR, Title 22, section 66261.3 et. seq.) or soluble pollutants at concentrations in excess of applicable water quality. Inert debris may not contain any putrescible wastes. Gravel, rock, soil, sand and similar materials, whether processed or not, that have never been used in connection with any structure, development, grading or other similar human purpose, or that are uncontaminated, are not inert debris. Such materials may be commingled with inert debris.
- (1) "Type A inert debris" includes but is not limited to concrete (including fiberglass or steel reinforcing bar embedded in the concrete), fully cured asphalt, crushed glass, fiberglass, asphalt or fiberglass roofing shingles, brick, slag, ceramics, plaster, clay and clay products. Type A inert debris is waste that does not contain soluble pollutants at concentrations in excess of water quality objectives and has not been treated in order to reduce pollutants. The board, upon consultation with the State Water Resources Control Board, will determine on a case by case basis whether materials not listed in this subdivision qualify as Type A inert debris. The board and the State Water Resources Control Board may consider statewide and site-specific factors in making this determination.
- (2) "Type B inert debris" is solid waste that is specifically determined to be inert by the applicable RWQCB, such as treated industrial wastes and de-watered bentonite-based drilling mud, but excluding Type A inert debris.
- (I) "Inert Debris Engineered Fill Operation" means an activity exceeding one year in duration in which only the following inert debris may be used: fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), crushed glass, brick, ceramics, clay and clay products, which may be mixed with rock and soil. Those materials are spread on land in lifts and compacted under controlled conditions to achieve a uniform and dense mass which is capable of supporting structural loading, as necessary, or supporting other uses such as recreation, agriculture and open space in order to provide land that is appropriate for an end use consistent with approved local general and specific plans (e.g., roads, building sites, or other improvements) where an engineered fill is required to facilitate productive use(s) of the land. Filling above the surrounding grade shall only be allowed upon the approval of all governmental agencies having urisdiction. The engineered fill shall be constructed and compacted in accordance with all applicable laws and ordinances and in accordance with specifications prepared and certified at least annually by a Civil Engineer, Certified Engineering Geologist, or similar professional licensed by the State of California and maintained in the perating record of the operation. The operator shall also certify under penalty of perjury, at least annually, that only approved inert debris has been placed as engineered fill, and specifying the amount of inert debris placed as fill. These determinations may be made by reviewing the records of an operation or by on-site inspection. Certification documents shall be maintained in the operating records of the operation and shall be made available to the EA during normal business hours. Acceptance of other Type A inert debris or shredded tires sursuant to Waste Discharge Requirements prior to the effective date of this Article does not preclude an activity from being deemed an inert debris engineered fill operation, provided that the operation meets all the equirements of this Article once it takes effect. Where such materials have been deposited, the operator must

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- (5) other similar solid wastes approved by the department.
- (b) A person may not use the following wastes as fill:
 - (1) animal waste;
 - (2) asbestos;
 - (3) biosolids;
 - (4) commercial solid waste;
 - (5) drilling waste;
 - (6) hazardous waste;
 - (7) household waste;
 - (8) industrial solid waste;
 - (9) medical waste;
 - (10) mining waste;
 - (11) pathological waste;
 - (12) PCB waste;
 - (13) putrescible waste;
 - (14) selected isolation waste;
 - (15) sewage solids;
 - (16) tires;
 - (17) vehicles and construction equipment.
- (c) A person may not place solid waste on the land until the person has submitted a proposal to the department, and that proposal has been approved. A proposal submitted under this section must include the following:
- (1) an appraisal or assessment showing the current value of the property where the solid waste is to be placed;

Roger

From:

Roger

Sent:

Monday, February 03, 2014 5:47 PM

To:

jcozzi@haines.ak.us

Cc:

Brenda; Ralph

Subject:

FW: January 24 letter

Attachments:

SKMBT 42314020315000.pdf

February 3, 2014

Dear Julie:

Thank you for your time today.

Attached is a copy of the letter which was forwarded to Mark Earnest on October 22, 2013.

This issue was discussed in a meeting with the Borough Manager, Mark Earnest on October 1, 2013. I also followed up on that discussion with a teleconference with him on October 9th, 2013. The attached letter was sent to him and per his request, I contacted Sandra Woods, ADEC, confirming that the site was in compliance with ADEC requirements. It was my understanding that once the site was in compliance no further action was required.

My property is not being utilized as a landfill or as a place to bury or store any regulated material. I wish to utilize material in the future for "filling and grading" as defined under Chapter 18.20, suggesting a permit may be required, however presently the material delivered on-site, (all unregulated material) acts as a berm.

Please confirm for me your first bullet, i.e., it states "Landfill" ...in compliance with required State and/or Federal authorization. State regulations under 18 AAC 60.005, cement and asphalt are unregulated and exempt, and therefore does not meet the definition of "Landfill".

Regarding the second bullet, an explanation as to why the Borough feels obligated to become involved in permit requirements with other State Agencies would be appreciated. (i.e., "you cannot use the crushed asphalt until you submit a proposal to ADEC".)

Placing a timeline for removal is appreciated, however not consistent with Mr. Earnest's requirements for compliance.

Sincerely,

Roger.

ROGER J. SCHNABEL

HC60 Box 4800 HAINES, ALASKA 99827 (907) 766-2833 roger@seroad.com

October 22, 2013

Mr. Mark Earnest Borough Manager P.O. Box 1209 Haines, Alaska 99827

Re: Your letter dated September 25, 2013
Solid Waste Disposal/Unpermitted Landfill/Off Road Truck
Meeting of October 1, 2013
Verbal Understanding and Agreement dated October 9th (phone)

Dear Mr. Earnest:

This letter is in response to your September 25th letter regarding the issues above. It is intended to memorialize our meeting of October 1st as well as the phone call of October 9th when we verbally agreed to a remedy to put closure on this issue.

Enclosed please find permit # 087141 as requested for the off-highway unit

Per our discussion we note the following and to confirm the discussion:

- The culvert and regulated materials have been removed from the site as requested as of this date. –culvert, the only regulated item has been delivered to the scrap metal collection firm presently in Haines.
- The concrete and asphalt can remain on-site, a non-regulated material as defined under Alaska Administrative Code (18 AAC 60.005).
- The definition of the second bullet appears incorrect (Mr. Earnest had no opinion regarding this so submit accordingly). i.e., the concrete and asphalt is unregulated material and was not brought onto the property as "waste or business solid waste for disposal".

It is important to note that the asphalt and concrete, brought onto this site, was not placed there assuming it was approved through the existing conditional use permit as indicated in your letter (first bullet). It was delivered there and stored for use on my personal property. If a permit to store this material is required, an application will be submitted. Please Advise.

Per your suggestion, I contacted Sandra Woods, and the site is now in compliance with the ADEC. On a related note, it is my understanding a Borough official went onto my property took pictures and submitted them to the ADEC for review. — Please advise if this is correct.

Sincerely,

Roger J. Schnabel

enc.: Permit-Off highway truck

Exempt solid waste materials sheet (ADEC)



HAINES BOROUGH, ALASKA P.O. BOX 1209 HAINES, AK 99827 (907) 766-2231 FAX (907) 766-2716

Date: March 5, 2014

To: Haines Borough Planning Commission From: Tracy Cui – Planning & Zoning Technician

Re: A Black Water Disposal Ordinance

Several weeks ago, the Borough received a land use permit application to construct a 16' by 18' cabin on a vacant lot in a rural residential zone of Haines Borough Townsite Service Area where municipal water and sewer services are not available. The property owner proposed to use a creek as a water source and install a composting toilet, instead of installing a septic system. In reviewing of the application, I found that our code is absent of any mention about whether the use of a composting toilet/outhouse/pit privy is a permissible use within the Townsite Service Area. I think there should be some criteria that prohibit this use in the Townsite and some different criteria that allow this use in the outermost areas of the Townsite. The regulations should be enacted to protect the property values, public health, safety, welfare and environment.

I was told by the Interim Borough Manager that the Planning Commission has discussed at their 07/09/09 and 08/13/09 regular meetings as well as a committee-of-the-whole meeting the topic of a black water disposal ordinance. The Planning Commission recommended the Assembly adopt Ordinance 09-05-208 which provides a definition and while prohibiting outhouses within the Townsite, requires outhouses or pit privies comply with ADEC requirements elsewhere. (Please refer to the attachments) While the ordinance was in the Assembly authorization process, the former Borough Manager Tom Bolen became aware the Planning Commission has additional thoughts. He promised he will bring the revised ordinance back to the Assembly after working with the commission. Unfortunately, Bolen left town before that happened.

I am willing to work forward with it if this is still the intent of the commission or the commission desires to adjust its position upon further discussions.

Thank you very much.

Haines Borough BOROUGH ASSEMBLY ACTION REQUEST

DATE: 7/10/09

TO: Borough Assembly

FROM: Haines Borough Planning Commission

PLANNING COMMISSION ACTION:

<u>Motion</u> by **Venables:** Recommend the Assembly adopt the manager's proposed additions to ordinance 09-05-208 for the purposes of discussion. It was seconded by **Turner**.

<u>Motion to amend</u> by **Venables**: Recommend the Assembly adopt alternate ordinance 09-05-208 which includes changes he submitted. It was seconded by **Turner**.

Amendment motion carried unanimously.

Main motion carried unanimously.

RATIONALE:

This alternate ordinance provides a definition and while still prohibiting outhouses within the townsite, requires outhouses or pit privies comply with DEC requirements elsewhere.

PLANNING COMMISSION REQUEST:

Adopt alternate ordinance 09-05-208 which includes changes submitted by the manager and commissioner Venables.

SUBMITTED BY:		(signature)
	Lee Heinmiller	
	Planning Commission Chairman	

Planning Commission recommended additional ordinance amendments gray highlighted.

HAINES BOROUGH, ALASKA

ORDINANCE 09-05-208

AN ORDINANCE OF THE HAINES BOROUGH AMENDING TITLE 18 TO ESTABLISH THAT OUTHOUSES AND PIT PRIVIES ARE NOT ALLOWED WITHIN THE TOWNSITE AND ESTABLISH GUIDELINES FOR METHODS OF WASTEWATER AND SEWAGE DISPOSAL.

BE IT ORDAINED:

Section 1. <u>Classification</u>. This ordinance is of a general and permanent nature and the adopted amendment shall become a part of the Haines Borough Code.

Section 2. <u>Severability</u>. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. <u>Effective Date</u>. This ordinance shall become effective immediately upon adoption.

Section 4. <u>Purpose</u>. This ordinance amends Title 18 to establish that outhouses and pit privies are not allowed within the townsite and establish guidelines for methods of wastewater and sewage disposal. outside of the townsite. The code is amended as follows:

NOTE: Bolded/UNDERLINED ITEMS ARE TO BE ADDED STRIKETHROUGH ITEMS ARE DELETED

18.20.020 Definitions-Regulatory

"Open space" means areas within a proposed development site excluding areas devoted to buildings, structures, roadways and parking. At least one-half of all areas designated as usable open space must have a slope of less than 20 percent.

"Outhouse, pit privy, or trench latrine" means a temporary, intermittent, or seasonal method of disposing of human wastes, which involves the deposit of such waste in an earthen cavity, not lined with a containment structure.

18.60.010 General approval criteria.

Ordinance 09-05-208 Page 2 of 5

- H. Parking. Parking, loading areas and snow storage sites for the proposed development shall be adequate, safe and properly designed. The developer may be required to install acceptable lighting at pedestrian or vehicular access points.
- I. Utilities. The proposed use shall be adequately served by public water, sewer, on-site water or sewer systems, electricity, and other utilities prior to being occupied. The borough may require a letter of commitment from a utility company or public agency legally committing it to serve the development if such service is required. If property on which a use is proposed is within 200 feet of an existing, adequate pubic water and/or sewer system, the developer shall be required to connect to the public systems. The borough may require any or all parts of such installation to be oversized, however the additional cost beyond the size needed for the development will be borne by the borough.
- 1. Exemption; When, in the opinion of borough staff, no public sanitary sewer and/or water service is available within 200 feet of the property, the developer may request shall be issued an exemption from the requirements to connect to these public utilities. All regulations of the State Department of Environmental Conservation pertaining to water extraction and wastewater disposal, as well as the requirements of HBC 13.04.080(G) pertaining to on-site wastewater disposal, shall apply. If exempted from the requirement to connect to public utilities, a developer must provide written Department of Environmental Conservation (DEC) approval of the on-site wastewater system design prior to permit approval. Upon installation and before closure, the wastewater disposal system must be inspected and approved by a DEC-approved inspector. The wastewater disposal system must also be inspected by a DECapproved inspector, at the property owner's expense, every two years, in the spring of the year, with a written approval of the system submitted to the borough by June 1st of the year.
- 2. Expiration of exemption. When public sanitary sewer and/or water service becomes available, the developer may will be required to connect to the public utility within six months.

Outhouses or pit privies are not permitted within the townsite.

All methods of wastewater and sewage disposal outside of the townsite shall meet Department of Environmental Conservation requirements.

3. Outhouses, pit privies, trench latrines. Outhouses, pit privies, and trench latrines are not permitted within the townsite, and are a violation of this title. The use of outhouses, pit privies, or trench latrines shall comply with guidelines published by the Alaska Department of Environmental Conservation. All methods of wastewater and sewage disposal

Ordinance 09-05-208 Page 3 of 5

shall meet Department of Environmental Conservation requirements.

J. Drainage. The applicant for a proposed use shall provide for the control of runoff during and after construction. All roads and parking areas shall be designed to alleviate or avoid runoff into public streets or adjoining lots and to protect rivers, lakes and streams from pollution. Developers may be required to provide for the conservation of natural features such as drainage basins and watersheds, and provide for land stability.

18.70.030 Zoning districts - Zones.

- B. Mud Bay Planning/Zoning District.
- q. Setback Standards.
- (1) Structures shall be located no less than 25 feet from the nearest lot line, and right-of-way line, with Chilkat State Park Road being exempt from the right-of-way setbacks.
- (2) Structures shall be located no less than 25 feet, measured from the top of the nearest stream bank, from any stream or watercourse used to provide domestic water, and from all anadromous fish streams.
- h. All methods of wastewater and sewage disposal shall meet Department of Environmental Conservation requirements.
- 4. Cannery Zone (CA).
- e. Conditional uses. There are no conditional uses in the cannery zone.
- f. All methods of wastewater and sewage disposal shall meet Department of Environmental Conservation requirements.
- C. Lutak Inlet Planning/Zoning District.
- g. Lot Standards. The minimum lot size in the rural residential zone shall be three acres. The minimum lot width shall be 200 feet.
- h. Building Setback Standards. Structures shall be located no closer than 10 feet from all property lines except for properties located along the Lutak Spur road (from the Chilkoot River bridge to the end of the road) where there will be no minimum setback along the road front right-of-way. Setbacks will apply for all other property lines along the Lutak Spur road.
- i. Building Height Standards. The building height standard is 35 feet maximum height from the plane of the mean building grade. j. Sign Standards.
- (1) Signs permanently affixed to structures shall not exceed 32 square feet.

Ordinance 09-05-208 Page 4 of 5

- (2) Permanent signs not affixed to a structure shall not exceed 16 square feet.
- (3) Only non-electrified signs will be permitted.
- (4) Temporary signs shall be removed within 10 days after the date of sale or the event or condition advertised. Temporary signs shall not exceed 16 square feet per side.
- k. Recreational Vehicle (RV) Parking. Recreational vehicles are not to be used as permanent dwellings, such as a single-family dwelling, and may not be inhabited on the lot more than four months annually. Parking will be limited to three RVs per lot. Commercial RV parks are prohibited.
- 1. Noise Standards.
- (1) Heavy equipment operation, other than for house maintenance, building construction, or emergencies, is limited to the hours of 8:00 a.m. to 5:00 p.m., seven days a week with a maximum of seven consecutive days of operation.
- (2) All generators used for permanent power must be muffled, enclosed and owners must employ noise reduction measures (a pamphlet describing such measures will be available from the manager). Generators used for construction purposes or emergencies are exempt. It is not the intent of this chapter to place an onerous burden on any property owner but to try to control noise pollution from power generators for the benefit of all within the zone.

m. All methods of wastewater and sewage disposal shall meet Department of Environmental Conservation requirements and guidelines.

- 4. Riparian Zone (RI).
- a. Purpose. This zone is intended to provide for the protection of waterfront property.
- b. Applicability. The riparian zone applies to all land from mean high tide to the 21-foot high tide level and 15 feet landward therefrom and/or 15 feet from the vegetated banks of streams or lakes.
- c. Permitted Uses. The only permitted use will be water intake structures for domestic water use.
- d. Accessory Uses. Accessory uses in the riparian zone are:
- (1) Saunas;
- (2) Cisterns:
- (3) Hot tubs;
- (4) Spring houses.
- e. Conditional Uses. Conditional uses in the riparian zone are:
- (1) Hydropower units;
- (2) Parks;
- (3) Fish hatcheries;
- (4) Docks;
- (5) Boat launching facilities;

Ordinance 09-05-208 Page 5 of 5

- (6) Bridges;
- (7) Roads and trails;
- (8) Cottage industries;
- (9) Commercial water intakes.
- f. Prohibited Uses Designated. All uses not expressly provided under permitted, accessory or conditional uses are prohibited.
- g. All methods of wastewater and sewage disposal shall meet Department of Environmental Conservation requirements and guidelines.

ADOPTED BY A HAINES, ALASKA	DULY CONSTITUT	ED QUORUM DAY OF	OF THE	BOROUGH 2009.	ASSEMBLY	OF
ATTEST:			Janic	e Hill,	Mayor	
Julie Cozzi, E	Borough Clerk	_				

Date Introduced: 05/26/09
Date of First Public Hearing: 06/09/09
Date of Second Public Hearing: 06/23/09
Date of Third Public Hearing: 07/14/09

Mark Earnest

From:

Freeman, Joran (DEC) [joran.freeman@alaska.gov]

Sent:

Monday, June 29, 2009 1:27 PM

To:

Tom Bolen

Cc:

Dieffenbacher, Amy A (DEC)

Subject:

RE: Outhouses

Hello Tom,

We do not permit the use or installation of outhouses/pit privies for private use (camps and lodges are excluded - see GP requirements), nor do we regulate where privies can be located with the exception that they must meet specific setback criteria. We do, however, offer guidance information that specifies the minimum criteria (construction/maintenance/decommission) for protecting public health and the environment. We offer a courtesy design review for black and graywater systems, and if appropriate, will issue an in-formal "acknowledgement" stating that the system is designed at least as stringent as the recommendations as outlined in 'Composting-Incinerating Toilet' guidance document.

So no, outhouses for private use are legal if they are designed, installed, maintained, and operated to a minimum standard, and that they comply with local ordinances.

As part of our process, we request the following of people who want to use our remote wastewater treatment/disposal methods:

- 1. Cover letter identifying:
 - a. property owner
 - b. property location (physical and legal address, ex: USS 4444, Lot 6)
 - c. method of blackwater disposal proposed with diagram or copy of owner's manual (incinerating/composting toilet)
 - d. source of graywater (ex: kitchen sink, shower, laundry, etc.)
 - e. method of graywater disposal proposed with diagram (surface discharge should have some sort of disinfection)
 - f. separation distance issues
- 2. Plot Plan of property showing:
 - a. residence
 - b. graywater system and graywater discharge location (surface or subsurface discharge)
 - c. all separation distances
 - d. ash disposal location, if incinerating toilet is utilized
 - e. pit privy location, if pit privy is utilized

This information is filed according to legal address of the property.

Please let me know if you need any additional information.

Joran

From: Tom Bolen [mailto:tbolen@haines.ak.us]

Sent: Sunday, June 28, 2009 9:33 PM

To: Freeman, Joran (DEC) **Subject:** Outhouses

future agenda item once the manager has legal opinion. Venables asked why the borough didn't comment regarding the HCMP on their own project. Ritzinger said the manager didn't feel comfortable making a comment on their own project because of conflict of interest. Venables pointed out that in the future, the Planning Commission could make a comment so that positive feedback is given for borough's project.

PUBLIC HEARINGS 7.

A. Variance Requests

1. Ellis Adjacent Property Setback Variance

Chairman Heinmiller opened the public hearing at 6:56 p.m.

Ellis explained his need for the wood shed in its proposed location and that he would agree to the conditions set forth by the manager.

Motion by Venables: Approve the Ellis adjacent setback variance request with the stipulations set forth by the manager. It was seconded by Brask. The motion carried unanimously.

B. Conditional Use Permits

Port Chilkoot Company Resource Extraction Conditional Use Permit

This item was removed at the approval of the agenda.

- 8. **OLD BUSINESS** - None
- 9. **NEW BUSINESS**
 - A. HCMP Consistency Review None
 - **B.** Haines Borough Code Amendments
 - 1. Black Water Disposal Within the Haines Borough

Motion by Venables: Recommend the Assembly adopt the manager's proposed additions to ordinance 09-05-208 for the purposes of discussion. It was seconded by Turner.

Motion to amend by Venables: Recommend the Assembly adopt alternate ordinance 09-05-208 which includes changes he submitted. It was seconded by Turner.

Due to his absence, Hedden provided written comments on this topic and they have become a part of the permanent record.

Venables said he understands the intent of the manager's recommendations but suggests the removal of "periodically emptied by a licensed provider of this service." due to possible interpretation of the word periodically. He also suggested to replace the word "will" with the word "may" under the heading expiration of exemption where the ordinance outlines requirements for a citizen to connect with the public utility, suggesting that this would allow each developer to bring their situation forward on a case by case basis as there is currently no room for negotiation. His last point was in the restriction of outhouses, pit privies and trench latrines outside the townsite pointing out that title 18 predominantly governs the townsite and suggested it was difficult to enforce to restrictions placed on the general use zone. Turner brought up that that the initial recommendation was to restrict outhouses in the townsite only. Venables expressed concern with the language as the manager proposed pointing out that the borough would be collecting permit fees on something they weren't going to enforce. Heinmiller suggested outhouses outside the townsite would have to be grandfathered in, discussed the difference between a cesspool and septic system and discussed access problems for the outhouses to be emptied if this ordinance is going to require them to do so. Turner brought up that DEC regulates outhouses in remote sites and that is what they are in the business of doing. He suggested potential problems in replacing "will" with "may", pointing out that the septic

July 9, 2009 Page 2 of 4

Continued.

systems in the area would be contaminating the ground and also suggested that there is plenty of lead time with these types of projects for residents to plan accordingly. **Brask** asked if the word "will" was left in, would there be an option for a homeowner to seek a variance. **Venables** said he didn't see that it was an option. **Turner** said the word "may" would give the option. **Heinmiller** said the requirement in that statement would be by the borough, not the property owner.

Amendment motion carried unanimously.

Main motion carried unanimously.

C. Historic Building Changes/Development

1. Roberts Proposal To Replace the Deck and Add a Porch/Greenhouse

<u>Motion</u> by **Venables:** Approve the Roberts proposal to replace the deck and add a porch/greenhouse to this surveyed historic building for discussion purposes. It was seconded by **Brask**.

Venables asked who would be doing the renovations. **Kurz** said he would be doing the work himself. **Heinmiller** pointed out that the addition isn't massive and it will be protecting the structure so it isn't a bad idea.

The motion carried unanimously.

D. Other New Business

1. Chilkoot Indian Association Native American Lands Environmental Mitigation Program Project – Portage Cove Inter-Tidal Investigation

<u>Motion</u> by **Brask**: Support the CIA's NALEMP-Portage Cove Inter-Tidal Investigation Projects. It was seconded by **Venables**.

Hanson explained the plans of the project, that CIA was seeking Planning Commission support of the projects and that they wanted to give the public a chance to voice concerns at every phase. He said that no comments had been made up to this point and that this was the first public meeting that the projects have been discussed at. He went on to say that CIA is aware of the possibility of concerns coming out once the work was visible.

Turner asked where the pilings and exposed cable were. Hanson described the locations for the projects. Heinmiller gave Port Chilkoot Company's favorable point of view on removing the piles.

The motion carried unanimously.

2. PC Restroom - Discussion item

Venables said as he understands the manager has direction on the project and asked that it be a regular topic on the agenda so the Planning Commission has the ability to review facilities as provided for in code and action can be taken as necessary. **Heinmiller** agreed.

3. Nukdik Point Property – Discussion item

Venables said the commission may choose to make a recommendation to the borough regarding purchase or considering eminent domain on this property. **Turner** suggested he didn't like the idea of eminent domain nor did he want to spend his tax money on purchasing more property. **Venables** suggested the borough could sell other properties to recoup the expense of the property and suggested the waterfront merited special attention. **Brask** agreed that he would like to open up discussion.

<u>Motion</u> by **Venables**: to recommend to borough assembly to have staff open up dialog to pursue options for acquiring the Nukdik point property.

Xi Cui

To: Parks, Jessica L (DEC)

Subject: RE: Questions about "Composting Toilet"

From: Parks, Jessica L (DEC) [mailto:jessica.parks@alaska.gov]

Sent: Wednesday, February 19, 2014 3:21 PM

To: Xi Cui

Subject: RE: Questions about "Composting Toilet"

Hi Tracy,

In response to your questions:

- Since the property is beyond the Borough public water and sewer service, does DEC allow the owner to install a composting toilet instead of an installation of DEC-approved septic system?
- If DEC is okay with the installation of a composting toilet, what are the design requirements?
- If DEC does not require a plan review for a composting toilet since there would be no onsite wastewater discharge involved, then graywater treatment may be required. What are the requirements for a graywater treatment system?

DEC does not regulate composting toilets; a homeowner could definitely choose to install one. Plan review would not be required. Plan review WOULD still be required for graywater discharge. The requirements for graywater treatment are identical to the requirements for blackwater treatments. It is my understanding that homeowners typically choose to install a system that treats both blackwater and graywater since the graywater system has to be approved by DEC and meet minimum discharge requirements anyway. I believe that homeowners often find it to be more cost effective than a composting toilet and a separate graywater treatment system.

I hope this answers your questions. Please feel free to email back or call if you have any other questions.

Thank you,

Jess Parks Environmental Program Specialist ADEC Division of Water - Onsite disposal Juneau, AK (907) 465-5306

Memorandum

Haines Borough Office of the Mayor 103 Third Avenue S. Haines, Alaska 99827 sscott@haines.ak.us Voice (907) 766-2231 ext. 30

February 26, 2014

To: Rob Goldberg, Chair, Haines Borough Planning Commission

Planning Commissioners Danny Gonce, Andy Hedden, Lee Heinmiller,

Heather Lende, Donnie Turner, Robert Venables,

Cc: Xi Cui "Tracy," Planning and Zoning Technician III

Michelle Webb, Interim Clerk

Julie Cozzi, Interim Borough Manager

Members, Borough Assembly

From: Stephanie Scott, Mayor, Haines Borough

Subject: Assessment and identification of sites for ATV use in the townsite

The Borough Assembly would like to resubmit its request to you regarding the evaluation and identification of sites for ATV use in the townsite service area. We noticed that an important piece of information was missing when you deliberated and for that we apologize. Please find attached the list of 5 potential sites offered at the January 14 Assembly meeting. We should have transmitted this list to you along with our request.

We are relying on your considerable knowledge of the terrain, coupled with the knowledge a few of you possess of the impact of ATVs on terrain, to determine the suitability of the suggested locations. We are also relying on your knowledge of zoning constraints as well as neighborhood character, once again, to determine the suitability of the proposed use. We would also appreciate any statements you might like to make regarding the nature of the use that might be appropriate for a townsite ATV "park." For example, there might be a site that would be suitable for "learners and youth" but not at all attractive to experienced riders.

Thank you for your help. If possible, we would like to take up your recommendations in June or July, about 4 months from now.

Attachment: Sites

Received from Assembly Member George Campbell On 1/8/14 for 1/14/14 Assembly Meeting .

Formation of a Motorized Park in Haines Alaska

Suggested Motion:

Request the Planning Commission to identify areas near or within the townsite of suitable size and terrain for designation as a Motorized Park. Recommendations to be returned to the assembly for the February 25th, 2014 assembly meeting.*

The Haines Borough Comprehensive Plan includes motorized recreation as one of the "Quality of Life" benefits for residents. Motorized use represents the third largest recreation group responding when combining snowmachine and ATV use.

Motorized use by families is on the increase in Haines, having a place close to town where families can go ride in the evening will be a long term benefit to our community, and can become a draw for visitors from other communities.

Some suggestions for location of a Motorized Park:

- 1. Borough land near and west of Community Waste Solutions land fill; designated as parks and open space in the comp plan, near present industrial use
- 2. Borough Land at the end of Sawmill Road between the road and Chilkat River, industrial and vacant land on most sides of this location.
- 3. Borough land near the water treatment plant, poor option due to sensitive salmon habitat.
- 4. Oslund Park; Borough land that was given to "Children of the Chilkat Valley"; presently only the skate park is dedicated for the intended purpose
- 5. Other lands requiring some sort of a purchase, trade or MOU for use: Pit at the end of Major road, Fairground's old gravel pit, Klukwan Inc property at Jones Point.

Regnest to ederation within 4 months.

Tribal and Local Wetland Programs

Local leaders playing a central role in aquatic resource management decisions for their communities

Local Leadership and Coordination

✓ Ensures informed decision making:

Very little field tested/verified mapping information in Southeast Alaska regarding where wetlands are and what functions and values they are providing

✓ Saves money and time:

There is no local input as to where we would like to see development and mitigation happen

✓ Sustain the resource over time:

There is no long term plan regarding the development and stewardship of the natural resource

Tribes in AK that have developed local wetland management plans and programs:

Native Village of White Mountain-

Golovin Bay Watershed Alliance, Wetland Program Plan for Monitoring and Assessment-

http://water.epa.gov/type/wetlands/upload/wpp-golovin-bay-watershed-alliance.pdf

Chilkoot Indian Association

Wetland Program Plan Development

Native Village of Eklutna

Wetland Program Plan Development

Local governments in AK that have developed local wetland management plans and programs:

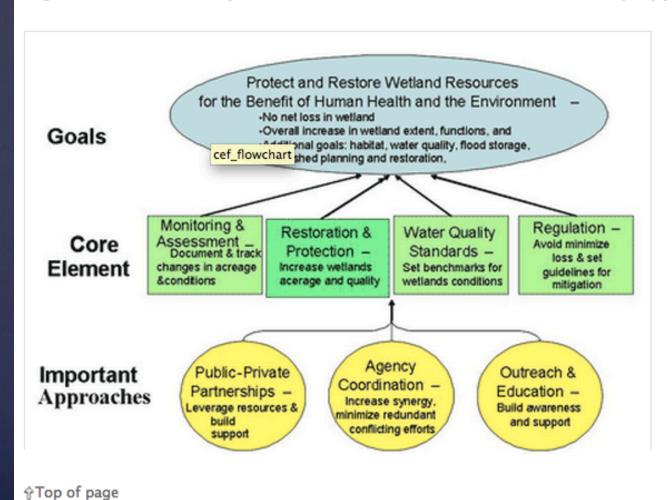
- Anchorage wetlandshttp://www.muni.org/Departments/OCPD/Planning/Projects/Pages/ AnchorageWetlandsManagmentPlan.aspx
- Juneau wetlands http://www.juneauwatersheds.org/watershed library.html
- Kenai Borough wetlands http://www.kenaiwetlands.net/
- Homer wetlands http://www.cityofhomer-ak.gov/planning
- Mat-Su wetlands http://www.matsugov.us/docman/doc_download/3768-final-mat-su-borough-wetlands-mgt-plan

The CWA and its regulatory programs are written in a way that ensures local plans are taken into consideration when:

- They are made available
- They are vetted by local decision makers and natural resource professionals and
- They are congruent with federal processes

EPA Wetland Program Plans

Figure 1: Relationship between Goals, Core Elements, and Key Approache



Core Elements of a Wetland Program Plan

- Monitoring and Assessment
 - ✓ Collection of baseline information
- Restoration and Protection
 - ✓ Identification of willing private landowners
- Water Quality Standards
 - ✓ Baseline information
 - ✓ Set standards for wetlands
- Regulation
 - ✓ Strive to meet no net loss of wetlands
 - ✓ Set guidelines for mitigation

Xi Cui

To: Stephanie Scott Subject: Stephanie Scott RE: Joint Meeting

From: Stephanie Scott < sscott@aptalaska.net > Date: February 26, 2014, 3:23:08 PM AKST To: Rob Goldberg < artstudioalaska@yahoo.com >

Cc: <u>DG_Assembly@haines.ak.us</u>, <u>andyhedden@chilkatguides.com</u>, Lee Heinmiller < <u>lee@alaskaindianarts.com</u>>, <u>hlende@aptalaska.net</u>, <u>danny.g@aptalaska.com</u>,

stacie@aptalaska.net, Robert Venables < venables@aptalaska.net>

Subject: Joint Meeting

Dear Rob,

I hope we can work together soon to schedule a joint meeting of the Planning Commission and the Assembly. If we target March 20, that would give us both time to poll the bodies we chair for possible agenda topics during our regular meetings March 13 (PC) and March 11 (Borough Assembly).

In addition to capital projects, we might consider jointly discussing Downtown Revitalization (How has assigning that subcommittee to the PC worked for everyone?), planning for the remaining elementary school property, identification of borough property for sale, any sections of title 18 the PC would like to target for revision, even the possibility of rezoning areas in the General Use Zone.

I would like to acknowledge that we have had several appeals or lack of Assembly concurrence of PC decisions; and that Commissioners might be feeling frustrated when their carefully considered decisions are overturned by the Assembly. Though this is not always the case, it is bound to happen from time to time. I would like to find a way to navigate those moments while maintaining and communicating the utmost respect for the work you do.

Sincerely,

Stephanie

Stephanie Scott Mayor, Haines Borough 907-766-2231 ext.30